



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

JUN 13 2014

Kenneth L. Hunrichs
President, Friends of the Children's Pool
3090 Admiral Avenue
San Diego, CA 92123

Dear Mr. Hunrichs,

Thanks you for your letter to Mr. William Stelle dated April 21, 2014, expressing your concerns regarding actions at Children's Pool Beach in La Jolla. Mr. Stelle has asked me to reply to your letter on his behalf.

As you noted in your letter, on January 2, 2014, I sent a letter to the City of San Diego explaining my perspectives regarding alternatives they were considering at Children's Pool. It remains my opinion that the most preferable outcome is one of shared use – where the MMPA is complied with but no unnecessary restrictions are placed on other beach or ocean users.

As I stated, the MMPA does not require that beaches be closed, or that people maintain any specific distance from the animals. Rather, the MMPA generally prohibits the harassment, hunting, capturing, or killing of marine mammals. As these terms relate to the pinnipeds at Children's Pool, the primary concern is the harassment of these animals that could occur as a result of human activities. Harassment would be acts of pursuit, torment, or annoyance that have the potential to injure the animal(s) or disrupt natural behavior patterns. I clarified that I do believe that pupping season is a particularly important time for ensuring that harbor seals are not impacted by human activities, but do not believe that complete closure of the beach is the only way of achieving that protection.

I also recommend the City, in making decisions to addresses the conflicts at Children's Pool Beach, review the pre-emption provisions of MMPA Section 109 (a), 16 U.S. Code Section 1379(a). In general terms, Section 109 (a) prohibits enforcement of laws or regulations relating to the taking of marine mammals except by a state to which the Secretary of Commerce or the Secretary of the Interior has transferred authority for the conservation and management of the species. That authority has not been transferred to the City.

Sincerely,

Chris E. Yates
Assistant Regional Administrator
for Protected Resources

cc: Administrative File: 151410WCR2014PR00135

